UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA STATESVILLE DIVISION DOCKET NO. 5:18-cv-00055-MOC

JOE HENRY THOMAS; AND SYLVIA MALLARD THOMAS,,)	
Appellants,)	
Vs.)	<u>ROSEBORO</u> ORDER
STEVEN G. TATE,)	
Appellee.)	

THIS MATTER is before the Court on a Memorandum to the District Court from the Clerk of the Bankruptcy Court (#2) filed in accordance with Rule 8001(a), Federal Rules of Bankruptcy Procedure. Fed.R.Bankr.P. 8001(a). In that Memorandum, the Clerk of the Bankruptcy Court has advised the undersigned that the *pro se* appellants have failed to comply with Rule 8003(a)(3). That rule provides that "[t]he notice of appeal must: (A) conform substantially to the appropriate Official Form; (B) be accompanied by the judgment, order, or decree, or the part of it, being appealed; and (C) be accompanied by the prescribed fee." Fed.R.Bankr.P. 8003(a)(3).

Review of the Notice (Bankr. #61) provided to the *pro se* appellants shows that they were advised as follows: "Notice of Appeal does not comply with Federal Bankruptcy Rule 8003(a)(3)." In Re Thomas, No. 17-50095 (W.D.N.C. Bankr.). Such notice does not, however, provide the *pro se* appellants with specific notice of which of the three subsections of Rule 8003(a)(3) has been violated. Pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir.1975), appellants are advised that their Notice of Appeal filed March 26, 2018, does not comply with Rule 8003(a)(3) in

that it was (1) not filed on Official Form 417A and (2) was not accompanied by a copy of the Order or Judgment appealed from. To comply with that rule, appellants will need to refile their Notice of Appeal on Official Form 417A, which is available here:

http://www.uscourts.gov/forms/appellate-forms/notice-appeal-and-statement-election. . If appellants do not have access to the internet, they can request that a paper copy of the form be provided by the Clerk of the Bankruptcy Court. Along with such completed form, appellants must also submit a copy of the Order or Judgment from which they are appealing. Appellants are advised that the Court will enlarge the time to comply and that they will now have until April 6, 2018, to correct those specific problems and to file.

Finally, the appellants are advised that "failure to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is ground only for the district court ... to act as it considers appropriate, including dismissing the appeal." Fed.R.Bankr.P. 8003(a)(2). Appellants are advised that if they fail to make the corrections discussed in this Order and file those by April 6, 2018, the Court may dismiss this action or take other appropriate action.

ORDER

IT IS, THEREFORE, ORDERED that acting upon the Memorandum to the District Court from the Clerk of the Bankruptcy Court (#2), appellants are advised to file an amended Notice of Appeal that complies with the instructions in this Order not later than April 6, 2018.

The Clerk of Court shall provide a copy of this Order to the Clerk of Bankruptcy Court.

Signed: March 28, 2018

